

STATE OF MICHIGAN
COURT OF APPEALS

GARY SHUTT and MICHELLE SHUTT,

Plaintiffs-Appellants,

V

CENTURY 21 CROW REALTY, JON T. CROW,
SHARON HOUSTON, DAWN TIMM, JAMES
ANDERSON, and LAURIE ANDERSON,

Defendants-Appellees.

UNPUBLISHED

May 17, 2002

No. 224971

Alpena Circuit Court

LC No. 98-002813-AV

Before: Saad, P.J., and Owens and Cooper, JJ.

MEMORANDUM.

Plaintiffs appeal by leave granted the circuit court's order affirming the district court's judgment of no cause of action. We vacate the district court's orders and decision and remand to the circuit court for further proceedings.

In 1993, plaintiffs purchased a home from the Andersons. Plaintiffs alleged that there were many defects with the home and filed a complaint in the circuit court alleging one count for rescission and fraudulent misrepresentation.¹ After deciding that plaintiffs' claim was primarily equitable in nature, the circuit court struck plaintiffs' jury demand and ordered that the case be submitted to mediation. The case was evaluated for less than the circuit court's jurisdictional amount² and it was removed to the district court.

Because the circuit court found plaintiffs' action to be primarily equitable, and because district courts lack subject matter jurisdiction over claims that are historically equitable in nature, MCL 600.8315,³ the circuit court erred in sending plaintiffs' claims to the district court.⁴

¹ Although these are two separate claims, neither the court nor the parties separated them into individual counts.

² MCL 600.8301, amended by 1996 PA 388, which changed the district court's jurisdictional amount from \$10,000 to \$25,000. At the time of this case, the district court had jurisdiction over cases that did not exceed \$10,000.

³ This statute was amended by 1996 PA 374, which added a second sentence, "However, the
(continued...)"

Consequently, any actions taken by the district court are void because it lacked subject-matter jurisdiction over equitable claims. See MCL 600.8315; *Todd v Dep't of Corrections*, 232 Mich App 623, 627-628; 591 NW2d 375 (1998). Indeed, we note that the district court relied on the law of the case doctrine to strike plaintiffs' jury demand. The circuit court, as noted, previously refused plaintiffs' request for a jury because of the equitable nature of their action.

Because the district court's lack of subject matter jurisdiction is dispositive, we decline to address the remainder of plaintiffs' issues on appeal.

We vacate the district court's orders as null and void. We remand to the circuit court for further proceedings consistent with this opinion and do not retain jurisdiction.

/s/ Henry William Saad
/s/ Donald S. Owens
/s/ Jessica R. Cooper

(...continued)

district court has jurisdiction and power to make any order proper to fully effectuate the district court's jurisdiction and judgment."

⁴ We note that the circuit court removed plaintiffs' claims to the district court pursuant to MCL 600.641 and MCR 4.003, which have since been repealed. MCL 600.641 was repealed by 1996 PA 374, § 5, effective January 1, 1997, and MCR 4.003 was repealed on May 8, 1997. According to *Hurt v Michael's Food Center*, ___ Mich App ___, ___ NW2d ___ (Docket No. 232079, issued February 8, 2002), the repeal of MCL 600.641 applies retroactively.